

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

April 12, 2004

C043234 THE PEOPLE v. NIKKEL (Not For Publication)

BY THE COURT:

Appellant's petition for rehearing is denied.
BLEASE, Acting P.J.

C040445 BROOKS v. STEARNS

BY THE COURT:

Appellant's motion to reinstate the appeal is granted. The order of March 26, 2004, dismissing the appeal is vacated, and the appeal is reinstated.
SCOTLAND, P.J.

C042007 FONG et al. v. WESTLY, as Controller, etc.

(Certified for Publication)

THE COURT:

For good cause it now appears that the opinion in the above-captioned case filed herein on March 11, 2004, should be published in the Official Reports and it is so ordered. (CERTIFIED FOR PUBLICATION.)

THE COURT:

SCOTLAND, P.J.
NICHOLSON, J.
MORRISON, J.

April 13, 2004

C034461 THE PEOPLE v. DANIEL (Not for Publication)

The judgment is affirmed.
SIMS, Acting P.J.

We concur: Davis, J.
 Robie, J.

C036854 THE PEOPLE v. MEEKS (Certified for Partial Publication)

The judgment is affirmed. **(Certified for Partial Publication.)**
HULL, J.

I concur: Morrison, J.

I concur in parts I, II, and III of the majority opinion.

I respectfully dissent from the majority's conclusion, in part IV...

... I would affirm defendant's convictions and remand to the trial court for resentencing.

Sims, Acting P.J.

**COURT OF APPEAL
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THIRD APPELLATE DISTRICT**

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The Minutes

April 13, 2004, continued

- C042550 THE PEOPLE v. EVANS, JR. (Not for Publication)**
 The judgment is affirmed.
 BLEASE, Acting P.J.
We concur: Nicholson, J.
 Robie, J.
- C042607 THE PEOPLE v. POST (Not for Publication)**
 The judgment is affirmed.
 NICHOLSON, J.
We concur: Blease, Acting P.J.
 Robie, J.
- C042627 THE PEOPLE v. WOODWARD (Not for Publication)**
 The judgment is affirmed.
 SIMS, Acting P.J.
We concur: Davis, J.
 Hull, J.
- C043772 THE PEOPLE v. WHITE (Not for Publication)**
 The judgment is affirmed.
 NICHOLSON, Acting P.J.
We concur: Raye, J.
 Hull, J.
- C041575 SCHACHERBAUER et al. v. SHERWOOD (Not for Publication)**
 The appeal is dismissed.
 SCOTLAND, P.J.
We concur: Nicholson, J.
 Raye, J.
- C042441 SAMANTHA H., a Minor, etc., et al. v. FIELDS et al. (Not for Publication)**
 The judgment is reversed. Plaintiff shall recover costs on appeal.
 BLEASE, Acting P.J.
We concur: Davis, J.
 Robie, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
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The Minutes

April 13, 2004, continued

C043317 THE PEOPLE v. POWELL (Not for Publication)

THE COURT:

It is ordered that the opinion filed herein on March 15, 2004, be modified as follows:...

... The petition for rehearing is denied.

BY THE COURT:

DAVIS, Acting P.J.

NICHOLSON, J.

ROBIE, J.

**C044963 In re J.H. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. TOM H. et al.**

THE COURT:

Appellant Chrisie W.'s petition for rehearing is denied.

DAVIS, Acting P.J.

April 14, 2004

C041978 THE PEOPLE v. BUTTE (Certified for Partial Publication)

Defendant's convictions and sentences on counts 1 through 18 are reversed. The matter is remanded for resentencing on the remaining counts and for recalculation of defendant's custody credits in accordance with parts V and VI of the Discussion. In all other respects, the judgment is affirmed.

SIMS, Acting P.J.

We concur: Nicholson, J.

Hull, J.

C043616 SINKEY v. COPART, INC.

BY THE COURT:

Appellant's petition for rehearing is denied.

BLEASE, Acting P.J.

April 15, 2004

C043016 THE PEOPLE v. BEARDSLEY (Not for Publication)

The judgment is affirmed.

BUTZ, J.

We concur: Davis, Acting P.J.

Hull, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
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The Minutes

April 15, 2004, continued

C045192 KUNEMAN et al. v. DEPARTMENT OF TRANSPORTATION

BY THE COURT:

Respondent's motion to dismiss the appeal is granted. The appeal filed October 15, 2003, is dismissed.

RAYE, Acting P.J.

C046471 TAYLOR v. (CONRAD) HREN

BY THE COURT:

The court has examined the notice of appeal and Civil Case Information Statement, and the appeal filed March 25, 2004, is dismissed as being frivolous. (See Code of Civ. Proc., section 170.3, sub.(d) ("The determination of the question of disqualification of a judge is not an appealable order and may be reviewed only by a writ of mandate from the appropriate court of appeal sought within 10 days of notice to the parties of the decision and only the the parties to the proceeding.").)

RAYE, Acting P.J.

C046091 CASEY J. v. MARTINA S. and BRADLEY B. et al.

C046176 BALLARD et al. v. JOHNSON et al.

BY THE COURT:

The motion of appellants for consolidation and calendar preference of the above cases is granted. The cases are ordered consolidated for all further appellate procedures except that they will retain their respective case numbers. Whenever documents are submitted for filing by the parties, an original must be presented for each case number; however, if copies of documents are required pursuant to the California Rules of Court, the parties need only submit a maximum of four. The cases will be considered for decision together.

SCOTLAND, P.J.

April 16, 2004

C042553 THE PEOPLE v. RATHBURN (Not for Publication)

Defendant's conviction on count 2, for violation of Penal Code section 245, subdivision (a)(1), is reversed. The judgment is otherwise affirmed. The trial court shall prepare an amended abstract of judgment reflecting this disposition and shall forward a certified copy to the Department of Corrections.

SIMS, J.

We concur: Scotland, P.J.

Nicholson, J.

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The Minutes

April 16, 2004, continued

- C043961 THE PEOPLE v. ARENIVAS (Not for Publication)**
The conditions of probation are modified... As modified the order of probation is affirmed.
ROBIE, J.
We concur: Blease, Acting P.J.
 Butz, J.
- C044451 In re MICHAEL U.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. JAMIE U. (Not for Publication)**
The judgment is affirmed.
ROBIE, J.
We concur: Scotland, P.J.
 Raye, J.
- C044747 In re R.G. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. LINDA H. (Not for Publication)**
The order terminating parental right are reversed and the matter is remanded for the limited purpose of determining whether notice of the proceedings to the Fort McDowell Mohave-Apache Community of the Fort McDowell Indian Reservation was required and if so, to provide notice in compliance with the notice provisions of the ICWA. If, after proper inquiry it appears that notice is not required, the orders shall be reinstated. If the juvenile court determines that notice is required, the court shall order the Department of Health and Human Services to comply with the notice provisions of the ICWA as to this tribe. Thereafter, if there is no response or if the tribe determines the minors are not Indian children, the orders shall be reinstated. However, if the tribe determines the minors are Indian children or if information is presented to the juvenile court that affirmatively indicates the minors are Indian children as defined by the ICWA and the court determines the ICWA applies to this case, the juvenile court is ordered to conduct a new section 366.26 hearing in conformance with all provisions of the ICWA.
ROBIE, J.
We concur: Davis, Acting P.J.
 Butz, J.